

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ARTHUR KIRLAW,
Plaintiff,

v.

NANCY KOZAK,
Defendant(s).

No. C 07-00430 SBA (PR)

**ORDER REGARDING IN FORMA
PAUPERIS MOTION**

On January 23, 2007, Plaintiff Arthur Kirlaw, a state prisoner, filed this pro se civil rights action under 42 U.S.C. § 1983. On that same date, the Clerk of the Court sent Plaintiff a notice directing him to pay the filing fee or to file a completed in forma pauperis (IFP) application. On April 2, 2007, Plaintiff filed a completed IFP application; however, he did not file copies of his Certificate of Funds and prisoner trust account statement.

Ordinarily, a plaintiff is permitted to file a civil action in federal court without prepayment of fees or security if he makes affidavit that he is unable to pay such fees or give security therefor. See 28 U.S.C. § 1915(a). If the plaintiff is a prisoner who alleges that he is unable to pay the full filing fee at the time of filing, he must submit: (1) an affidavit that includes a statement of all assets he possesses, and (2) a certified copy of the trust fund account statement for the prisoner for the six-month period immediately preceding the filing of the action, obtained from the appropriate official of each prison at which the prisoner is or was confined. See id. § 1915(a)(1), (2). If the court

1 determines that the plaintiff is unable to pay the full filing fee at the time of filing, the plaintiff will
2 be granted leave to proceed IFP. This means that the filing fee must be paid by way of an
3 installment plan, according to which the court first will assess and collect a partial filing fee from the
4 prisoner, and then the prisoner will be required to make monthly payments of twenty percent of the
5 preceding month's income credited to the his account until the full \$350.00 filing fee is paid. Id.
6 § 1915(b)(1). The agency having custody of the prisoner is responsible for forwarding to the court
7 payments from his account each time the amount in the account exceeds ten dollars. See id.

8 Therefore, before the Court will proceed to review the complaint Plaintiff is hereby
9 ORDERED to file copies of his Certificate of Funds and prisoner trust account statement. Plaintiff
10 shall do so within **thirty (30) days** of the date of this Order.

11 **Failure to file copies of his Certificate of Funds and prisoner trust account statement as**
12 **ordered herein by the thirty-day deadline shall result in the dismissal of this action without**
13 **prejudice.**

14 IT IS SO ORDERED.

15 DATED: 6/19/07


SAUNDRA BROWN ARMSTRONG
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ARTHUR KIRLAW et al,

Case Number: CV07-00430 SBA

Plaintiff,

CERTIFICATE OF SERVICE

v.

NANCY KOZAK et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 19, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Arthur Kinlaw Den:00A3863
Sullivan Correctional Facility
P.O. Box 116
Fallsburg, NY 12733-0116

Dated: June 19, 2007

Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk

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United States District Court
For the Northern District of California